# Lauded a hero, but a sexual predator

**SPECIAL INVESTIGATION**

There will be no justice for victims of a lawyer who abused his power, writes **Nick O'Malley**.

**David Bitel, a high-profile advocate for refugees, was alleged to have taken advantage of his clients behind his closed office door. His firm paid tribute to his achievements while announcing his death on its website (below).**

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It is with deep regret that we report the passing of David Bitel after a long illness. He will be greatly missed by the Directors and Staff of Parish Patience.

His knowledge and wisdom have guided the firm for many years and he is regarded as a pioneer of immigratio law. He has been respected and praised by his enormous clientele who came to rely on his judgement.

Michael Jones, Accredited Specialist Immigration Lawyer, has worked with David for many years and will now assume the role of Legal Practice Manager.

David devoted his final months to ensuring that there would be a smooth transition of his business to a company structure and that the interests of the firm's clients would be protected and that their ongoing worl would be unaffected in any way.

Every one of the ongoing team, who have benefited directly from David's knowledge and committment over many years, will continue to offer the same service for which Parish Patience has become renowned.

We look forward to continuing to work for you. Please contact us if you have any concerns.

After years of allegations and investigation – and a gruelling committal hearing – the story of David Bitel, a prominent Sydney lawyer and human rights advocate accused of raping his clients as they turned to him for help in his office, ended last Friday morning in a bland Downing Centre courtroom.

A judge found Bitel's pending trial had "abated on the death of the accused". There was talk of attaching a death certificate to a file. The judge moved on to another case.

The brief, bloodless language of the courtroom hardly reflects the long, bleak complexity of the case.

At the time of his death from cancer in August, Bitel was facing 21 charges relating to the sexual assault of six clients. Three charges were for "sexual intercourse procured by non-violent threat", nine for "assault with an act of indecency" and nine more for "sexual intercourse without consent".

To those who had summoned the courage to detail the crimes they said Bitel had committed against them, this was a case of justice delayed and then denied, even though in a committal hearing the court found there was sufficient evidence for a jury to convict.

To the whistleblowers who made repeated complaints about Bitel to every legal authority they could think of over a number of years, it looked as though some elements of the legal profession had – at least tacitly – protected Bitel for so long that cancer took him before he could either clear his name or face prosecution.

One of them, lawyer Mark Tarrant, observes bitterly that, in his view, Bitel had taken international law designed to protect the vulnerable and used it as a weapon against them.

Bitel had scaled the heights of his profession. Over the course of his career he served as president of the Refugee Council of Australia, chairman of the Australian Refugee Foundation and the Refugee Advice and Casework Service, the secretary general of the International Commission of Jurists (Australian Section) and a judicial member of the Equal Opportunity Division of the NSW Administrative Decisions Tribunal. He was on the Law Society of NSW's Human Rights Committee.

In an article celebrating him in the society's journal, he boasted of being known as "the father of Bangladeshi Australians".

In a video interview produced this year by a website for expatriate Bangladeshis, bddiaspora.com, Bitel is introduced as the "Westerner" who has become closest to the expatriate community in Australia.

In it Bitel speaks with startling clarity of his cancer and details how he became known for his success in having Australia recognise that persecution of homosexuality in Bangladesh was a cause for being accepted as a refugee. "I actually acted for the first gay Bangladeshi in the world to be approved as a refugee in 1991, here in Australia … on the basis of sexuality. That particular case was the first case in the world and it had some ramifications."

One of those ramifications, he says, is copycats: people claiming to be homosexual to secure permanent residency.

Bitel's career and reputation grew through the 1990s and 2000s and he became the lead partner at the Sydney firm Parish Patience. But also over that period, allegations about his behaviour began to swirl through legal circles.

In 2002, a client of Tarrant's confided Bitel had told him it was easy for Bangladeshis to secure permanent residency in Australia by falsely claiming to be facing persecution for being homosexual. Tarrant was disturbed by the story. It suggested a high-profile colleague was breaking the law.

In 2004, Tarrant heard another story about Bitel, this time from a New Zealand lawyer who Fairfax Media has interviewed. He told Tarrant he had come across claims Bitel had committed chilling crimes while in Dhaka, Bangladesh, a city he often visited for work. Tarrant recommended he contact the Australian Federal Police. After writing to the AFP, the lawyer says, New Zealand police interviewed Bitel but nothing came of it.

Fast forward to about 2007. One day Tarrant had lunch with another immigration lawyer, Brett Slater, who said one of his clients, a Nepalese man, tearfully told him he had been sexually assaulted by Bitel in his office. The client, whose name has been suppressed by a court order, eventually returned to Nepal after his bid for residency failed.

The following year, Tarrant made his own work trip to Dhaka and heard further rumours about Bitel's behaviour. He made a side trip to Kathmandu to find the Nepalese victim.

On April 30, 2008, the two met in a tourist hotel called the Yak and Yeti. The man again wept as he told Tarrant of Bitel's alleged assault and confirmed he wanted to pursue the matter. According to a statement the lawyers later took to police, in 1995 Bitel led the man into his Sydney office and locked the door behind him.

"He quickly came very close to me, got down low, and opened the zip of my pants."

Bitel began performing oral sex. "I was stunned, I was wondering why he was doing this. I had never seen anything like this before in my life … I was afraid … I did not want him to do it … I was crying."

The statement goes on to outline how the man backed away and the assault ended. In the following weeks, Bitel made an application to the Refugee Review Tribunal on his behalf, falsely stating he was a homosexual and faced persecution. He then instructed the man to give false evidence at his hearing.

Back in Australia, Tarrant and Slater came across a second Bitel client who told a similar story. In 2009, the second victim told Fairfax Media that Bitel told him during a meeting in his office he could get him permanent residency if he said he was gay.

At a second meeting Bitel was more blunt, the man told Fairfax Media. "If you sleep with me you will get permanent residency," he said, blocking the door to his office. Bitel then grabbed his penis through his trousers before opening his fly and saying: "Can I give you a head job?" The man says he pushed him away and left.

Meanwhile, concerned Bitel might pose a risk to other clients, Tarrant and Slater took their material to the police, who began an investigation. Slater gathered their evidence and presented it to the Law Society of NSW, the NSW Legal Services Commissioner, which handles complaints about lawyers in this state, and the Office of the Migration Agents Registration Authority, another federal government body.

To the dismay of the two men, Bitel was allowed to continue practising while the police investigation proceeded slowly. Detectives asked Fairfax Media not to publish its information at the time for fear of disrupting their work. Slater and Tarrant understand that, during the investigation, another Bitel client walked into a police station to level charges.

Also in 2009, Fairfax Media interviewed another of Bitel's former clients, Pedro Rojas, whose allegations never became part of legal proceedings. Rojas went on to become a student at Macquarie

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University and eventually a university lecturer in his native Venezuela, but in 1992 he had been just another young man hoping Bitel could secure him a life in Australia.

On about the fourth time they met, according to Rojas, Bitel threw an open manila envelope full of photographs onto the desk between them. Some spilled out and Rojas recalls being chilled.

"A few pictures came out from the envelope. I didn't touch them, I just saw a few pictures on the desk of a few boys, young kids on a boat and in a bedroom," Rojas said.

'He mentioned Thailand, Bangladesh and India. He said he goes often [on trips] and he do all these things … He was on a bed and there were a few boys on the bed."

Rojas was shocked and confused. "I was applying to stay in Australia. I was thinking, should I report this and then lose my residency?"

Rojas said Bitel locked the door and told him: "If you don't want to pay for your case then you should do as I say." Bitel tried to grab him, Rojas pushed him away and fled. To this day he has never met the two lawyers who gathered evidence against Bitel, nor heard any other details about the case.

> 'Bitel's victims could be forgiven for thinking the legal profession was cheering a lawyer-rapist on from the sidelines.' **Lawyer Mark Tarrant**

Finally, in 2012, Bitel was charged. But Tarrant and Slater are disappointed that, until the day he died, Bitel remained registered to practise in NSW. "Bitel's victims could be forgiven for thinking that the legal profession was cheering a lawyer-rapist on from the sidelines," Tarrant says.

He notes that, despite the raft of charges laid in December 2012, the Law Council of Australia allowed his firm to sponsor a cocktail party for delegates of its immigration law conference at NSW Parliament House in March 2014.

Bitel was included in the 2014-15 Best Australian Lawyers list.

Two months after his arrest, Bitel was a guest at a fundraiser at the University of NSW for ActionAid Australia, a charity that has helped vulnerable Bangladeshi children.

As recently as Thursday evening, at a conference for the International Bar Association in Washington, DC, a toast was held for Bitel, who, it was said, had had a "troubled" few years. There was no mention of his alleged victims.

Asked if it had failed to take action against Bitel, the Office of the Legal Services Commissioner declined to comment. Via a statement, the Office of the Migration Agents Registration Authority rejected the suggestion that any complaints had not been acted upon properly.

"Any allegation that relates to sexual assault is a matter for police investigation," it said. "Criminal charges take precedence over registration matters. OMARA does not have the power to suspend an agent while an investigation is ongoing and before specific findings have been made."

A spokeswoman for ActionAid said the fundraiser Bitel attended was arranged by an independent fundraising arm.

The Law Council said via a spokesman that Bitel's firm Parish Patience was a minor sponsor of the 2014 Immigration Law Conference, where the firm sponsored the opening reception.

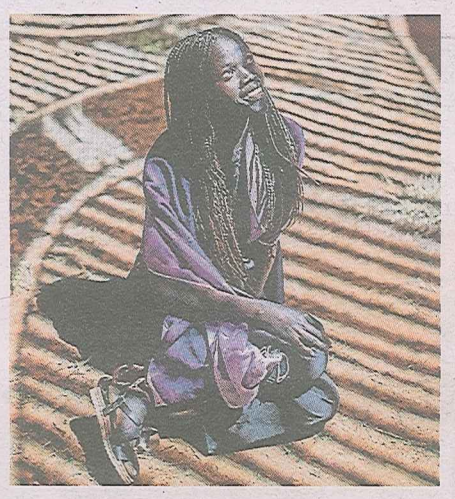
"Given concerns over the accusations against Mr Bitel, Parish Patience's request for sponsorship was referred to the Chair of the Professional Ethics Committee prior to the event.

"The firm's sponsorship request was accepted as the allegations were against an individual from the firm, rather than the firm itself.

"The Law Council regrets any distress that may have been caused due to the firm's sponsorship."

After speaking with Fairfax Media in 2009, Rojas sent an email that read in part: "I feel bad for not speaking at that time … but … one's mind ignores the damages due to thinking that he had the power back then to get rid of you by cancelling your visa.

"Those pictures that flew out of the envelope onto his desk, I have never forgotten them. It's like it was yesterday."



## Alice looks up, through the looking glass

A spectacular Indigenous light festival launched in Alice Springs this weekend. The Parrtjima – A Festival in Light showcases the oldest continuous culture on earth using the newest technology on a 300-million-year-old natural canvas.

The festival is a showcase of contemporary and traditional Indigenous art, culture and stories using light and sound that will illuminate the MacDonnell Ranges for 10 nights. Parrtjima has been created by the Northern Territory government in collaboration with AGB Events, known for its award-winning work on Vivid Sydney, and local Aboriginal artists, students and the community.

Photographer James Horan captured some of the opening night highlights.

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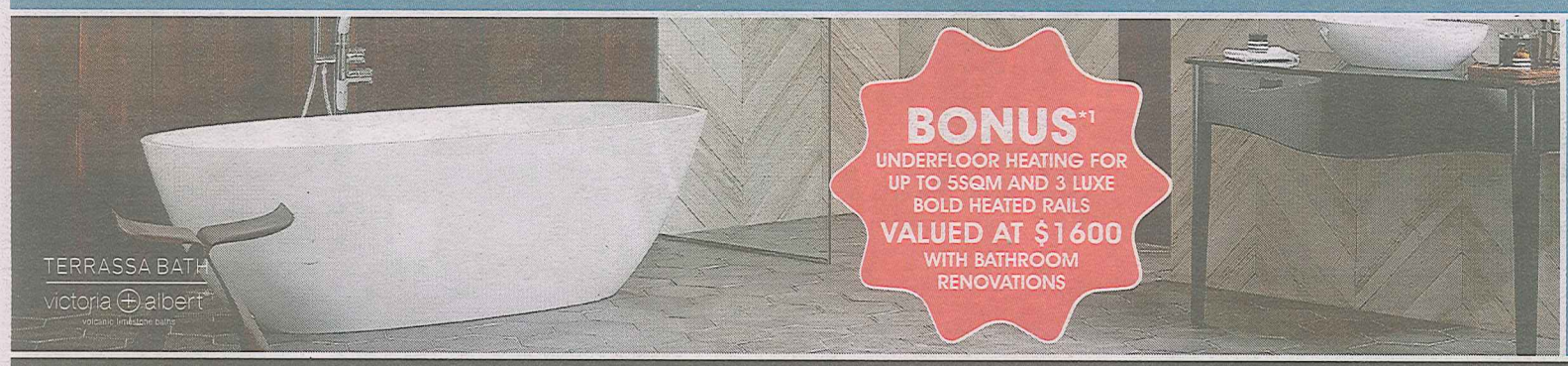


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